

Application No.: 09/996,707

**REMARKS**

The Office Action of April 26, 2004 has been carefully considered. Reconsideration of this application, as amended, is respectfully requested.

As is noted in paragraph [0001] of the published application, the instant invention is directed to improving the operability, maintenance and sanitary performance of produce-handling equipment. More specifically, the invention is directed to equipment that may be difficult to clean when the presence of water or liquid promotes the growth of bacteria and fungi. The present invention seeks to prevent such growth on elements of said produce handling equipment.

Claims 1, 2, 6, 7, 9, 13, 14, 15, 16 and 18 are amended to specifically recite vegetative produce that is grown, so as to distinguish from produce derived from animals, such as eggs. Support for this amendment is found in the specification at paragraph [0002] wherein fruits and vegetables are specified as examples of the type of produce to be considered within the scope of this patent.

Claims 4, 7 and 8 have been amended to recite a surface of the padding that is moist. Support for this amendment is based on the presence of washer 118 shown in Figure 1, as well as the description within paragraph [0003] in the specification.

Claims 20 and 21 have been canceled without prejudice to the subject matter set forth therein.

New dependent claims 22 – 26 have been added to set forth limitations as to the additive employed to achieve the anti-microbial properties and as to the thickness of the foam padding.

Turning now, to the office action, Claims 20 and 21 were rejected under 35 U.S.C. 112, first and second paragraph. Claims 15 and 19 were rejected under 35 U.S.C. 103(a) as being unpatentable over Smith 2,635,267 ("Smith") in view of Zabron et al 5,906,269 ("Zabron") or JP6-246,841 ("JP Abstract"). Claims 15 and 19 were also

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rejected under 35 U.S.C 103(a) as being unpatentable over Schnider et al 2,880,432 ("Schnider") in view of Zabron or JP6-246,841. Claims 15-19 were rejected under 35 U.S.C 103(a) as being unpatentable over Ross et al 3,651,922 ("Ross") in view of Zabron or JP6-246,841. Claims 15-19 were further rejected under 35 U.S.C 103(a) as being unpatentable over Boyle 6,309,741 ("Boyle") in view of JP 6-246841. Claims 1 and 6-11, 20 and 21 were rejected under 35 U.S.C. 103(a) as being unpatentable over Moore 2,195,371 ("Moore") in view of Ross as well as and Zabron or JP6-246,841. Claim 12 was rejected under 35 U.S.C 103(a) as being unpatentable over the prior art applied to claim 1 in view of Kurtz 3,242,008 ("Kurtz"). Claim 13 was rejected under 35 U.S.C 103(a) as being unpatentable over the prior art as applied in Claim 1 in view of Bowman 2,012,655 ("Bowman"). Claim 14 was rejected under 35 U.S.C 103(a) as being unpatentable over the prior art applied to claim 1 in view of Butterworth 3,449,779 ("Butterworth"). Claims 2-5 were rejected under 35 U.S.C 103(a) as being unpatentable over the prior art as applied in Claim 1 in view of Newhall et al 2,534,205 ("Newhall").

With respect to the rejections under 35 U.S.C. 112, in light of the cancellation of claims 20 and 21, the rejection is believed to be moot.

Turning now to the rejections under 35 U.S.C 103(a), the disclosures within the cited art and the distinctions between the rejected claims may be summarized as follows:

Claims 15 and 19 were rejected under 35 U.S.C 103(a) as being unpatentable over Smith in view of Zabron or JP6-246,841. Smith is specifically directed toward a machine "[t]o economically and efficiently clean eggs without the danger for of injuring the air cells or breaking the egg." (Col 1 Line 3-5) While Smith does suggest foam rubber on certain surfaces, it does not teach or suggest that the egg cleaning machine is capable of cleaning vegetative produce as now recited in the amended claims. Applicant respectfully notes that Claim 15 has been amended to recite vegetative produce, as compared to animal derived produce such as eggs. Applicant further notes that the brushing treatment taught by Smith would appear to cause damage to the vegetative produce now set forth in the claims.. Accordingly,

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the limitations of claim 15, from which claim 19 depends, are not taught by Smith. Applicant notes that molded-to-shape padding recited in claim 19 reduces or eliminates seams that would aid the collection of moisture and encourage growth of bacteria, etc. Furthermore, as identified by the Examiner, Smith lacks any reference or suggestion to the growth of bacteria on any of the padded surfaces. Applicant further notes that Smith also fails to teach or suggest any motivation to consider the use of antimicrobial agents.

Zabron teaches construction of a multilayer conveyor belting material consisting of a belt having two woven scrims connected by the entanglement of staple fibers and needled binding members. The entire web is then encapsulated with an elastomeric material to strengthen the connection between the scrims. Although Zabron does suggest the use of an anti-microbial material in a conveyor belt, it lacks any teaching or suggestion of the use of such as a padding to mitigate the bruising of fruits and vegetables. Nor is there any reference to the washing of produce in conjunction with the conveyor belting.

The rejection fails to set forth where the specific suggestion is found to combine the conveyor of Zabron with the machine of Smith. The only mention of a belt in Smith is a drive belt from motor to brush assembly. Absent a specific suggestion to combine, even to suggest that the anti-bacterial conveyor materials would be applicable to an egg cleaning machine, there is no basis for the proposed combination, nor the Examiner's proposed modification of Smith. To apply the teachings of Zabron to materials other than the conveyor belting is respectfully urged to be an improper expansion of the scope of the Zabron teachings without a basis for such expansion – keeping in mind that a hindsight reconstruction of recited claim elements is not an adequate basis to support such an expansion. Accordingly, Applicant respectfully contends that *prima facie* obviousness has not been established and requests that the rejection of claims 15 and 19 be withdrawn.

Even considering the proposed combination of Smith and Zabron, *in arguendo*, the combination fails to teach a vegetative produce handling machine with a stationary

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vegetative produce handling surface. Nor is there a teaching or suggestion of such a surface being covered with a foam padding to reduce bruising of the vegetative produce, where the padding material is formed with an anti-microbial agent.

With regard to the Japanese abstract #6246841, the description is directed to a solution of tin chloride, hydrochloric acid and an aqueous solution of silver nitrate into which a polyurethane foam material is dipped and rinsed. Applicant notes that the abstract does not suggest the use of the treated foam in contact with food articles of any type (refrigerator use is noted only for a dust collecting material). Thus, not only is there no suggestion of the use of the material as a padding in a vegetative produce handling machine, Applicant respectfully urges that the solutions suggested for treatment in the abstract would not be obvious as they would not be considered within the realm of acceptable materials for contact with food such as produce. In the event that the rejection is maintained, the Examiner is respectfully requested to indicate where the treatment or solutions identified in the abstract are suggested for use in contact with vegetative produce as recited in the amended claims. In light of the apparent incompatibility between the treatment described in the abstract and the proposed combination with Smith, Applicant respectfully asserts that *prima facie* obviousness has not been established, and requests that the rejection be withdrawn.

Even considering the proposed combination of Smith and JP Abstract #6246841, *in arguendo*, this combination also fails to indicate in a vegetative produce handling machine with a stationary vegetative produce handling surface. Nor is there a teaching or suggestion of such a surface being covered with a foam padding to reduce bruising of the vegetative produce, where the padding material is formed with an anti-microbial agent. In view of the above-noted arguments in traversal of the rejection of claims 15 and 19 under 35 U.S.C. 103(a) over Smith in view of Zabron, or alternatively JP Abstract #6246841, Applicant respectfully submits that the rejection is improper, or in the alternative fails to teach all of the limitations of the

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claims as set forth, and that claims 15 and 19 are, therefore, in condition for allowance.

Claims 15 and 19 were further rejected under 35 U.S.C. 103(a) as being unpatentable over Schnider in view of either Zabron or JP Abstract #6246841. Schnider, like the Smith reference above, is directed to an egg cleaning machine. Applicant has amended the claims to clarify that the machine is for the processing of vegetative produce. While Schnider does suggest padding on certain surfaces, it does not teach or suggest, nor is it apparent, that the egg cleaning machine is capable of cleaning vegetative produce as now recited in claims. As indicated above, Applicant believes that the brushing and handling taught by Schnider could cause damage to the vegetative produce so as to "teach away" from any reliance on such a disclosure. Furthermore, as acknowledged by the Examiner, Schnider lacks any reference or suggestion to the growth of bacteria or use of an anti-microbial agent on the padded surfaces. To apply the teachings Schnider to the handling of fruits and vegetables is expanding the scope of what is taught by Schnider. Thus, claims 15 and 19 are believed to be patentably distinguishable over Schnider.

Zabron, as noted previously, teaches construction of a multilayer conveyor belting material incorporating an anti-microbial material. However, Zabron lacks any teaching or suggestion of the use of the belting material as a padding to mitigate the bruising of fruits and vegetables. Nor is there any reference to the washing of produce in conjunction with the conveyor belting.

Even considering the combination of Schnider and Zabron, at best one of ordinary skill in the art would have been motivated only to substitute the Zabron conveyor material for that of the conveyor in Schnider. Such a combination still fails to describe a vegetative produce handling machine with a stationary vegetative produce handling surface. Nor is there a teaching or suggestion of such a surface being covered with a foam padding to reduce bruising of the vegetative produce, where the padding material is formed with an anti-microbial agent.

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With regard to the combination based upon Japanese Abstract #6246841, as noted above the abstract is directed to treatment of a foam layer with a solution of tin chloride, hydrochloric acid and an aqueous solution of silver nitrate. However, the abstract does not suggest the use of the treated foam in contact with food articles of any type (refrigerator use is noted for a dust collecting material). Thus, Applicant respectfully urges that the solutions suggested for treatment in the abstract would not be obvious as they would not be considered within the realm of acceptable materials for contact with food such as produce. In light of the apparent incompatibility between the treatment described in the abstract and the proposed combination with Schnider, Applicant respectfully contends that *prima facie* obviousness has not been established, and requests that the rejection be withdrawn.

Even considering the proposed combination of Schnider and JP Abstract #6246841, *in arguendo*, the combination fails to teach a vegetative produce handling machine with a stationary vegetative produce handling surface. Nor is there a teaching or suggestion of such a surface being covered with a foam padding to reduce bruising of the vegetative produce, where the padding material is formed with an anti-microbial agent. In view of the above-noted arguments in traversal of the rejection of claims 15 and 19 under 35 U.S.C. 103(a) over Schnider in view of Zabron, or alternatively JP Abstract #6246841, Applicant respectfully urges that the rejection is improper or, in the alternative, fails to teach all of the limitations of the claims as set forth, and that claims 15 and 19 are, therefore, in condition for allowance.

Now turning to the rejection of claims 15 through 19 as being unpatentable over Ross, in view of Zabron or JP 6-246841. Ross teaches a live roller surface conveyor having pairs of rollers made of a resilient elastomeric foam whereby fruit is passed therebetween. Input to and output from the live-roller conveyor is provided by a belt conveyor 122 or similarly configured conveyors (e.g., 142, 145, 158). The conveyor is presented fruit from an infeed guide having a cushion arrangement to absorb the impact of the fruit entering the hopper. Ross identifies the live rollers as being constructed of an elastomeric foam, however in his teaching of the cushion (see col

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6, lines 1-7) the Examiner has asserted that cushion 118 is constructed of the same material as rollers 84, as Ross fails to specifically disclose the material from which cushion 118 is constructed. Contrary to the Examiner's assertions, the disclosure at the top of col. 3 is clearly related to the live feed conveyor rollers and is not suggestive of similar materials for the padding 118 mentioned at col. 6. The Examiner appears to assert that a similar (not same) cross-hatching used for the pads requires that the same material be used for the pads as used for the live rollers. Applicant respectfully notes, however, that a similar padding appears at the top of Figure 3, and a different fill pattern is employed. Hence, Applicant respectfully urges that reliance on a similar fill pattern for shading of component cross-sections is without merit as the basis for asserting the same material, and is at best indicative of a "sponge rubber" pad pursuant to MPEP drawing symbol patterns (which are not mandatory – see e.g., MPEP608.02 (IX) stating "the Office will not "approve" any published collection of symbols as a group because their use and clarity must be decided on a case-by-case basis).

Zabron, teaches a belt conveyor employing an anti-microbial material. However, as noted previously, Zabron lacks any teaching or suggestion of the use of the belt material as a padding to mitigate the bruising of fruits and vegetables. Furthermore, Zabron fails to make any suggestion of the use of a closed-cell foam with an antimicrobial agent as a stationary padding material. To apply the teachings of Zabron to materials other than the belting is respectfully urged to be an improper expansion of the scope of the teachings without any basis for such expansion.

Considering the combination of Ross and Zabron, at best one of ordinary skill in the art would have been motivated to substitute the Zabron conveyor material for that of the belt conveyors of Ross. Such a combination, however, fails to indicate a vegetative produce handling machine with a stationary vegetative produce handling surface. Nor is there a teaching or suggestion of such a surface being covered with a foam padding, where the padding material is formed with an anti-microbial agent as recited in the rejected claims.

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With regard to the Japanese Abstract #6246841, as noted above, the abstract is directed to a solution into which a foam material is dipped. Yet the abstract does not suggest the use of the treated foam in contact with food articles of any type and, therefore, would not be an obvious combination with the food handling machine of Ross. Applicant further urges that one of skill in the art would be disinclined to use the material or treatment described in JP Abstract as Ross clearly indicates the possibility of a wet environment. Hence, Applicant respectfully contends that prima facie obviousness has not been established, and requests that the rejection of claim 15, and claims depending therefrom, be withdrawn.

With respect to claims 16 and 17 neither Zabron or Ross suggest what type of padding might be employed on a stationary surface, much less a closed-cell padding as claimed in 16 or one having a flexible outer layer as in claim 17. In like manner, the limitations of claim 18, of using a anti-microbial agent within the vinyl outer layer of claim 17, is not taught or suggested by either Ross or Zabron. Accordingly even if the combinations (Ross and Zabron or Ross and JP Abstract) are appropriate, The rejection fails to identify where the additional limitations of claims 16, 17 and 18 are found. In light of the failures of the proposed combination to teach the elements of dependent claims 16 – 18, Applicant respectfully urges that these claims are in condition for allowance.

Claims 15 through 19 were further rejected under 35 U.S.C. 103(a) as being unpatentable over Boyle in view of JP Abstract. Boyle does teach the use of a FDA approved closed cell foam padding for use in a shopping cart for the comfort of children or to protect fruits and vegetables from bruising. However, the patent to Boyle teaches away from the use of any anti-microbial agents, whereby it states at col. 2, lines 53-55 that "[t]he full skin surface can prevent the infiltration of water, fungus and bacteria and enable the pad to be easily cleaned with soap, steam or disinfectants" (Col 2 line 54-56). Moreover, Boyle is clearly directed to a "pad with a tough protective skin..." (Col. 2, lines 53-53). Boyle further goes on to say that cleaning is necessary to remove urine stains and fecal matter from a child. (Col 2



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line 59). Conversely, the present invention, directed to a produce handling machine, requires a stationary vegetative produce-contacting surface with an anti-microbial agent in padding on the surface.

Unfortunately the Examiner has incorrectly characterized the foam material described in JP Abstract, and has ignored the fact that it must be a thin, open-cell foam so as to be suitable as an air filter as described in the abstract ("dust collecting materials in cleaners, refrigerators, etc.") The Examiner provides no support for the assertion that one skilled in the art would be motivated to modify an FDA-approved pad material of Boyle with the agents set forth in JP Abstract to render the pad more sanitary. Nor has the Examiner identified how Boyle's closed-cell foam with a protective skin would be susceptible to treatment in the manner set forth in JP Abstract. Applicant respectfully urges that the proposed combination is improper.

Alternatively, even if the combination is considered, *in arguendo*, it fails to teach all of the limitations of the claims as set forth. In particular, there is no teaching of a vegetative produce handling machine having a stationary surface with a padding thereon, where the "foam padding is formed with an anti-microbial agent (claim 15, emphasis added). Hence, claim 15 is in condition for allowance. With respect to claims 16-19, these claims are dependant from claim 15 and are also believed to be in condition for allowance for the reasons set forth above relative to claim 15 and as a result of the failure of the proposed combination to teach the various aspects of the dependent claims.

Claims 1 and 6-11, 20 and 21 were rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Ross and Zabron or JP 6-246841. Moore teaches a potato washing and drying machine, however, Moore lacks any teaching or suggestions for the use of padding to prevent bruising on elements within the apparatus. Furthermore, Moore suggests no concern relative to bruising or contamination from microbes, bacteria or the like.

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Ross, as previously noted, does contain a reference to a cushion, however, there is no teaching as to the construction, operability and characteristics of such a cushion. Ross also lacks any suggestion of the use of anti-microbial padding on stationary surfaces.

Zabron, as noted previously, only teaches the use of antimicrobial agents in a conveyor belt or belting material that is in contact with food. Zabron does not teach or even suggest the use of an antimicrobial agent in any other aspect.

This rejection is set forth at pages 6 – 7 of the Office Action, however, while there is a listing of what is allegedly taught by each of the cited documents, there is no statement as to what information is relied upon in such documents to suggest the combinations and modifications proposed. Not only does Applicant respectfully urge that no basis for the proposed combination or modification is provided, but Applicant can only conclude in light of such omissions, that it is his own application (claims) that have been used as a "recipe" for the hindsight reconstruction of the invention from unrelated teachings in various documents. A piecemeal reconstruction of the prior art patents in light of the claims is not a basis for a holding of obviousness, *In re Kamm et al.*, 172 USPQ 298 (CCPA, 1972). The mere fact that the prior art devices could have been modified does not make the modification obvious unless the prior art suggested the desirability of such a modification, *In re Gordon*, 221 USPQ 1125, (Fed. Cir., 1984); *Jones v. Hardy*, 220 USPQ 1021, (Fed. Cir. 1984).

Although it may be urged to be obvious to combine the conveyor belt of Zabron within the teachings of Moore and Ross, at most such a combination would result in the substitution of the belting material taught by Zabron for the conveyor belts taught by Moore or Ross. There is no teaching or suggestion in Zabron, Moore or Ross, that would lead one to use foam padding having antimicrobial agents therein on the stationary surfaces of produce handling apparatus as recited in claim 1. The Examiner has asserted that "one would deem it obvious" (not the standard of obviousness) and that "it would not make sense to provide it to just one surface" when however that is exactly what Zabron teaches, no more, no less, just on the

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double scrim, woven conveyor belting. Applicant respectfully maintains that no basis for the modification of the Moore and Ross apparatus has been provided. Hence, claim 1 is urged to be patentably distinguishable over the combination of Moore in view of Ross and Zabron. In the event that the rejection is maintained, Applicant respectfully requests that the Examiner set forth with specificity those portions of the documents relied upon to support the combination and modifications upon which the rejection is based.

Relative to an alternative combination of Moore, Ross and JP Abstract, Applicant respectfully sets forth the distinctions and arguments in traversal of the rejection of claim 1 above. Applicant further urges, however, that the Examiner has again failed to set forth a basis for the combination, particularly in light of a lack of teaching in JP Abstract of the use of the material in a food-contacting manner. Applicant notes, as stated above, that the suggestion of use in a refrigerator was clearly as a dust collector and not as a padding or otherwise in contact with food.

Applicant respectfully submits that dependent claims 6 – 11 are patentably distinguishable and in condition for allowance for the reasons discussed above relative to claim 1. As to claim 6, which recites padding of closed-cell foam, Applicant urges that the requirement for the live rollers for "rapid resilient recovery" (col. 3, line 9) is not a requirement of padding and would not suggest such a modification. Claims 7 and 8 recite a vinyl outer layer to reduce absorption of moisture, is neither taught nor suggested by a compliant wear sleeve affixed to a roller, as taught by Ross. Moreover, if the Examiner maintains the position that the use of vinyl is an obvious choice of design, Applicant requests that the Examiner provide support for such an assertion. Claim 9, in addition to reciting an inspection conveyor, recites conveyor rolls including "at least an outer layer of foam having anti-microbial properties." No teaching or suggestion of such a roller configuration is found in the wood rolls of Moore, nor would it have been obvious to modify the wood rolls of Moore with foam rollers of Ross as the Ross rollers are directed to a live roller

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conveyor with opposing rollers that would preclude any inspection, let alone culling by the inspectors as taught by Moore.

Further considering claim 10, Applicant urges that a "discharge chute 89" as taught by Moore does not give rise to a the recited sizer with a drop surface having anti-microbial padding thereon. With respect to claim 11, the standard for obvious is respectfully urged to be higher than "could be," and Applicant requests that the Examiner identify where a packing table (see e.g., Fig. 1, 140A) is taught (not being a chute). In light of the various distinctions noted above, acknowledgement of the allowability of claims 1 and 6 – 11 is earnestly requested.

Claim 12 was rejected under U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1, and further in view of Kurtz. The teachings of Kurtz generally involve the washing and drying of eggs and more specifically a means to remove the water from the shell of the egg. In addition to the above-noted distinctions within claim 1 and failure to teach or suggest the use of an anti-microbial agent, there is also no suggestion for the proposed combination of utilizing a drape in the Moore, Ross or even Zabron references. It is incumbent, in setting forth a *prima facie* rejection under 35 U.S.C. §103(a) to show where the proposed teaching or suggestion for a combination or modification is found in the cited references. Furthermore, even if the proposed modification to add the Kurtz curtain to the Moore washer is appropriate, there remains no teaching or suggestion to make such a curtain with an anti-microbial agent as recited in claim 12. Otherwise, it appears that Applicants' disclosure is, once again, being used as a recipe for selecting the appropriate portions of the prior art to construct the claimed invention. It is clear that the combination of patents does not suggest that the modifications proposed by the Examiner be made. Applicant respectfully requests that such "well known" methods to prevent the build-up of mold or fungus within less accessible regions of a handling machine be identified in an appropriate reference. Absent such, *prima facie* obvious has not been established, and the burden is not shifted to Applicants to rebut the rejection. Accordingly, claim 12 is respectfully urged to be allowable.

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Claim 13 was rejected under U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1, and further in view of Bowman. The patent to Bowman teaches the use of rubber spurs (5) to dislodge scale on the surface of certain fruits. Bowman is notably lacking any reference to washing with the use of water, nor is there any suggestion that microbial contamination of the equipment is a problem. Accordingly there would be no reasonable expectation that Bowman or other would have motivation to utilize a washer with a "scrubber rubber produced with an anti-microbial agent to provide resistance to the growth of microbes thereon" as in claim 13. In the event this rejection is maintained, Applicant respectfully requests that the Examiner identify where a washer is taught that includes scrubber rubber produced with an anti-microbial agent.

Considering claim 14, which was rejected under U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1, and further in view of Butterworth, the patent to Butterworth, as in the Bowman reference above, uses an abrasive action so as to scrape foreign material from an egg shell. Such a combination or modification does not give rise to the teaching of a brush within a vegetative produce washer, nor of the further limitation of the brush having bristles produced with an anti-microbial agent. To apply the teachings of Zabron to materials other than the belting is, as set forth above, an improper expansion of the scope of what is taught by Zabron. No reference set forth in the rejection suggests the use of brush bristles with an anti-microbial agent. The Examiner appears to seek to "bolster" his position in the rejection of claim 14 by further asserting a Dupont document (cited in the present application and noted in Applicant's information disclosure). In the event that this document is relied upon as the basis for an aspect of the rejection, Applicant requests that it be cited in the rejection and that Applicant have opportunity to respond thereto.

Once again, the mere fact that the cited prior art could have been combined does not make the modification obvious unless the prior art suggested the desirability of such a combination. Applicant respectfully urges that the rejection is therefore improper

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and that claim 14 is in condition for allowance. Furthermore, Applicant maintains that no teaching of an anti-microbial agent for use in the brush bristles of a vegetative produce washer has been identified. Accordingly claim 14 is believed to be patentably distinguishable over the combination of Moore in view of Ross, Zabron / JP Abstract and Butterworth.

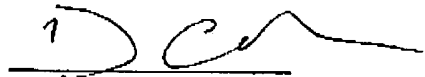
Claims 2-5 are rejected under 35 U.S.C. 103 (a) as being unpatentable over the prior art as applied to claim 1 above and further in view of Newhall. Applicant incorporates herein the previously noted distinctions between claim 1, from which claims 2 - 5 depend, and the combination of Moore in view of Ross and Zabron. Newhall is added to the combination for its teachings relative to the structure of a water absorber having open-cell foam rollers and associated wringer rollers. However, the Examiner has failed to establish where, if at all, the various combinations of patents, alone or in combination, teach the use of a water absorber with an open cell foam roller having anti-microbial properties. The simple substitution of Newhall's water absorber for the dryer of Moore does not result in any teaching or suggestion of rollers with the characteristics recited in claims 2 - 5. Accordingly, Applicant respectfully asserts that *prima facie* obviousness has not been established, and that claims 2 - 5 are, therefore, distinguishable over the alleged combination.

In view of the foregoing remarks and amendments, reconsideration of this application and allowance thereof are earnestly solicited. In the event that additional fees are required as a result of this response, including fees for extensions of time, such fees should be charged to USPTO Deposit Account No. 50-2737 for Basch & Nickerson LLP.

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In the event the Examiner considers personal contact advantageous to the timely disposition of this case, the Examiner is hereby authorized to call Applicant's attorney, Duane C. Basch, at Telephone Number (585) 899-3970, Penfield, New York.

Respectfully submitted,



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